

**Testimony**

**of**

**Jerry W. Hogge**

**Senior Vice President & General Manager  
Government Markets  
Level 3 Communications, LLC**

**8270 Greensboro Drive  
McLean, VA 22102**

**Before the**

**Congress of the United States**

**House of Representatives**

**Committee on Government Reform**

**March 3, 2005**

Good morning Chairman Davis and members of the Committee. Thank you for inviting me here today to speak to you about the Networx Program. My name is Jerry Hogge, and I am Senior Vice President and General Manager of Level 3 Communications, Government Markets.

In prior testimony, Level 3 praised the General Services Administration for revising its Networx strategy to incorporate the best elements of past program successes while building in flexibility and choice for the future. We believe that GSA has taken positive steps in many areas of this procurement and that Networx, through the competitive benefits of both the Universal and Enterprise contracts, holds great promise for realizing the Government's stated goals of encouraging competition, creating new sources of supply and achieving best value for the taxpayer's dollar.

In its current form, however, the draft RFP requires two fundamental revisions.

- First, the Minimum Revenue Guarantee (MRG) for Enterprise awardees should be increased to ensure vigorous and broad-based participation by existing and new entrants.
- Second, the draft RFP should clearly describe the mechanism that will be used to ensure full and fair competition between and among Enterprise and Universal contract awardees, especially the "fair opportunity" process that will be used to transition from FTS2001 to Networx.

In our judgment, unless these issues are properly resolved, Networx is not likely to achieve best value for the Federal government, and is not likely to attract aggressive competition from new bidders. The balance of my testimony elaborates on these issues, and provides specific recommendations for improving these aspects of the procurement.

## **I. MINIMUM REVENUE GUARANTEES FOR ENTERPRISE**

In order for Networx to achieve its stated goals of providing high quality services, competitive prices, and alternate sources of supply, it must be structured to encourage competitive bids from a wide range of potential bidders. Incumbent and non-incumbent bidders are most likely to compete vigorously for a Networx contract if an award carries with it a reasonable expectation of business commensurate with the market opportunity, and appropriate to the unique costs and investments associated with complying with the contract requirements. Based on our understanding of the draft RFP, Networx will require bidders to make a substantial amount of government-specific investment, as well as incur significant up-front bid and proposal costs. As such, Networx will attract bidders, particularly new entrants, only if success in receiving a contract award carries with it an assurance of meaningful business through the contract.

The threshold measure of business expectation is a contract's minimum revenue guarantee. Accordingly, Level 3 recommends a minimum revenue guarantee of at least \$25 million for each Enterprise award to be satisfied over the base contract period. An MRG of this magnitude is appropriate to the size of the market for Enterprise services, does not present undue budgetary risk to the government, and is necessary given the unique investments required.

## **II – MECHANISMS ARE REQUIRED FOR POST AWARD COMPETITION**

### **BETWEEN UNIVERSAL AND ENTERPRISE**

Even more important than the Government's minimum expression of business commitment, is the successful bidders' expectation to be given a "fair opportunity" to compete for and win business throughout the life of the program. GSA's acquisition strategy acknowledges this

important aspect of the program in the deliberate and substantial overlap that has been created between the Universal and Enterprise RFPs. Level 3 fully supports this concept, but believes that the expected competitive benefits of the Program will be realized only if Universal and Enterprise are formally linked. The need for a formal, direct linkage is essential, particularly for purposes of transition-related “fair opportunity” bidding. Agency decisions made during the FTS2001 to Networx transition period will significantly impact the ultimate value of each Networx contract. In our judgment, a direct linkage can be achieved either by reforming the procurement at the outset by designing a single contract vehicle with multiple vendor categories, or by keeping separate contracts for Universal and Enterprise, but linking the two sets of contracts through a “cross-over” approach similar to that used to connect the FTS2001 and MAA contracts. As we noted in our formal comments on the draft RFP, ample precedent exists for both approaches.

Finally, the RFP must define a clear process for ensuring that the competition among and between the Universal and Enterprise contracts is robust and fair. The “fair opportunity” process should not only set forth clear guidelines to require agencies to solicit “fair opportunity” proposals from all Universal and Enterprise winners capable of meeting the stated requirements, but it should also set forth objective guidelines for how bids will be evaluated, and how the results will be tracked and communicated. Such a process will allow both Universal and Enterprise winners to compete on a level playing field for agency business post-award, will maximize competition and give agencies expanded choice for network providers, technologies, and agency-specific solutions. An equitable approach also would make it unnecessary for, indeed would not permit, a single company to receive prime contract awards for both Universal and Enterprise.

### **III. OPEN ISSUES MAKE IT PRUDENT TO ISSUE A SECOND DRAFT RFP**

Properly resolving these key issues, as well as the many detailed issues raised by the comments GSA received in response to its draft RFP, is at the heart of the Networx program's ability to attract agency participation, motivate vigorous industry competition, and ensure best value for end-user agencies. We are roughly a month away from the release of the final RFP, and the two fundamental elements I've described remain either partially or wholly unresolved. Other essential information, such as the evaluation criteria, the instructions for proposal preparation, a detailed site inventory, and GSA's response to over 2,500 detailed comments has not been released.

As a prospective non-incumbent bidder, it is certainly our preference for this procurement to move forward without substantial delay. However, given the profound nature of the issues I have discussed, I believe it is even more important to take reasonable time for these issues to be properly resolved before a final RFP is issued. The strategic importance of the Networx program in terms of its estimated 10 billion dollar value, its broad-based agency use, its service scope and ten-year duration require elevating substance over strict adherence to a predetermined timeline. Accordingly, I recommend that GSA clarify its final position on these issues in the form of a second draft RFP. Doing so will minimize the number and complexity of amendments that would otherwise be required in the absence of a second draft, and ensure that all potential bidders are presented with a comprehensive and clear statement of the GSA's requirements. This approach should enable each prospective offeror to more precisely assess the potential business opportunity available through Networx, and facilitate the most competitive and compelling proposals from industry.

#### **IV. CONCLUSION**

In summary, Level 3 recognizes that GSA has made significant progress towards defining a procurement that combines the best elements of past program successes with flexibility and choice for the future. GSA has listened to industry, to the Federal agencies, and has made many improvements to the initial procurement strategy. However, a few strategic issues remain to be resolved, issues that are critically important to the success of the program, to attracting new bidders, and ensuring best value for end-user agencies. Left unchanged, these issues are likely to significantly limit the success of Networx, particularly Networx Enterprise, and potentially deter both existing and new bidders from pursuing these contracts. Level 3 is hopeful that the leadership of GSA and this Committee will recognize the importance of these issues, and that they will be favorably resolved before Networx moves forward.

Level 3 looks forward to continuing to work with GSA, and Chairman Davis and the Government Reform Committee, to ensure that Networx is a success.

Thank you, Chairman Davis, and the Committee for your time and consideration, and I am happy to answer any questions you might have.